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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Expert workshop on best practices to promote women's equal nationality rights in law and in practice

Summary report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to Human Rights Council resolution 32/7 on the right to a nationality: women's equal nationality rights in law and in practice. In that resolution, the Council requested the United Nations High Commissioner for Human Rights, in coordination with the United Nations High Commissioner for Refugees, to organize a half-day expert workshop to showcase best practices to promote women's equal nationality rights in law and in practice and to submit to it at its thirty-sixth session a summary report on that workshop, including any recommendations stemming therefrom. The workshop took place in Geneva on 16 May 2017.

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I. Introduction

1. In its resolution 32/7, the Human Rights Council requested the United Nations High Commissioner for Human Rights, in coordination with the United Nations High Commissioner for Refugees, to organize a half-day expert workshop to showcase best practices to promote women's equal nationality rights in law and in practice, and to submit to it at its thirty-sixth session a summary report on that workshop, including any recommendations stemming therefrom. The workshop took place in Geneva on 16 May 2017. Eight experts and approximately 70 participants attended the workshop, including State delegations, civil society organizations, United Nations agencies and persons who had been affected by discrimination against women in nationality laws. One of the members of the working group on discrimination against women in laws and in practice also participated as an expert.

2. The present report includes a summary of the views and good practices described and recommendations made by participants, including those shared during preparations for the workshop. The discussion during and recommendations emanating from the workshop built upon calls made by the Human Rights Council in its resolution 32/7, the undertakings made by States regarding their obligations under the international human rights treaties they have ratified, and the commitments made by States under the 1995 Beijing Declaration and Platform for Action and the 2030 Agenda for Sustainable Development. They also took into consideration the analysis and recommendations provided in the report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on discrimination against women on nationality-related matters, including the impact on children (A/HRC/23/23) and in Committee on the Elimination of Discrimination against Women general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women. The discussion was also informed by efforts by the international community to achieve the goals of global campaigns, such as the 10-year campaign to end statelessness entitled "I Belong" of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the global campaign for equal nationality rights by an international coalition of organizations.

II. Overview of women's equal nationality rights

3. The vast majority of States guaranteed gender equality in their nationality laws. Since 2003, 17 countries had fully or partially reformed their nationality laws to ensure gender equality.[1] Nevertheless, gender discrimination in nationality laws remained a concern in several countries throughout the world. According to UNHCR, 25 countries did not grant women the same rights as men to confer their nationality on their children,[2] and more than 50 countries did not recognize women as having equal rights to men to acquire, change and retain their nationality, or to confer nationality on non-national spouses.[3]

4. Discrimination against women in nationality laws manifested itself as the restriction of women's ability to: (a) acquire, change and retain their nationality; (b) confer nationality on their children; and (c) confer nationality on their spouse.[4] Discrimination against women in other laws, policies and practices, such as family laws, criminal laws and civil registration, may also result in discrimination against women and their families in terms of

[1] See UNHCR, "Background Note on Gender Equality, Nationality Laws and Statelessness 2017", available from www.refworld.org/docid/58aff4d94.html. Most recently, Sierra Leone amended its Citizenship Act in July 2017 to guarantee women and men the equal right to confer nationality on children. See www.parliament.gov.sl/dnn5/LinkClick.aspx?fileticket=VzcD6puQCo%3d&tabid=92&mid=652.

[2] See "Background Note on Gender Equality" (footnote 1 above).

[3] See http://equalnationalityrights.org/the-issue/the-problem.

[4] See A/HRC/23/23, para. 72.

their nationality rights. To ensure the enjoyment by women of equal nationality rights, reforms of nationality law and other relevant laws may be required.

5. Once laws were reformed, States should take measures to ensure effective implementation of those laws, by: (a) developing national plans of action; (b) awareness-raising and capacity-building of duty-bearers, including national and local government officials and the judiciary working on nationality laws and civil registration, and rights-holders, including women who wish to acquire, change, retain or reclaim their nationality and that of their children and spouses; (c) eliminating practical and administrative obstacles that may prevent women from exercising their rights under the reformed laws; and (d) providing access to justice and effective remedies in the case of a violation of rights.

III. Importance of guaranteeing women's equal nationality rights

6. Experts and participants at the workshop underscored the importance of eliminating discrimination against women in nationality rights, including as one of the essential measures for States to: (a) guarantee a universal human right to nationality and the enjoyment of many other human rights, including the right of every child to acquire a nationality; (b) prevent and reduce statelessness; (c) fulfil the international commitments they had made, including under the 2030 Agenda for Sustainable Development; (d) promote stability and development of society; (e) reduce risks of gender-based violence; and (f) protect family unity and the right to found a family.

7. Experts and participants at the workshop recognized the relevance of the existing international legal framework on the right to nationality and the negative impact of discrimination against women in nationality rights on the enjoyment of various human rights. The right to a nationality was a universal human right recognized in the Universal Declaration of Human Rights.[5] Every man, woman and child had the right to a nationality, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and no one should be arbitrarily deprived of his or her nationality.[6] One delegation stated that ensuring gender equality in nationality was "a fair return to normality".

8. Article 9 of the Convention on the Elimination of All Forms of Discrimination against Women recognized that women had equal rights to men to acquire, change or retain their nationality and that of their children.[7] Several regional human rights treaties also recognized the right to a nationality[8] and equality with regard to nationality-related matters.[9]

9. Articles 2, 7 and 8 of the Convention on the Rights of the Child provided for the right of the child to nationality without discrimination on the basis of any kind, including the sex of the child or the status of the parents. When women were unable to confer their nationality on their children on an equal basis to men, children may be left without a nationality, in contradiction with the Convention.

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[5] See Universal Declaration of Human Rights, art. 15. See also International Covenant on Civil and Political Rights, art. 24 (2)-(3); Convention on the Rights of the Child, art. 7; and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 29.

[6] See Universal Declaration of Human Rights, arts. 2 and 15. See also Human Rights Council resolution 32/7, second preambular para. and para. 1.

[7] The Committee on the Elimination of Discrimination against Women holds that article 9 also extends an obligation to ensure equality between men and women in the ability to confer their nationality on spouses. See its general recommendation No. 32 (2014).

[8] These include: the Organization of American States Convention on the Nationality of Women; the American Convention on Human Rights; the African Charter on the Rights and Welfare of the Child; the European Convention on Nationality; and the Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms.

[9] The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa and the Arab Charter on Human Rights also have provisions on equality with regard to nationality-related matters, even though they qualify these with deference to domestic laws.

10. Two international conventions specifically dealing with the issue of statelessness, i.e. the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, imposed obligations on a contracting State to take measures to avoid statelessness, including: (a) granting its nationality to a person born in its territory or born to one of its nationals abroad in a non-State party who would otherwise be stateless;[10] (b) ensuring that the loss of its nationality is conditional upon possession or acquisition of another nationality;[11] and (c) facilitating the naturalization of stateless persons.[12]

11. While it was at the discretion of each State to determine by law who its nationals were, such determination should be consistent with its obligations under international law, including with respect to non-discrimination.[13]

12. Discrimination against women in nationality laws was one of the primary causes of statelessness, both for women and their family members.[14] Experts and participants highlighted that statelessness resulted in wide-ranging and significant hardships that could affect individuals and their families for generations and impair their enjoyment of various human rights. The denial of the enjoyment of human rights faced by stateless persons included: (a) participation in political processes (the rights to vote and run for public office); (b) access to social services, such as public health-care services and social security (the rights to health and social security); (c) access to education and job opportunities (the rights to education and to work); (d) access to housing (the right to an adequate standard of living, including adequate housing); (e) access to identity documents and other essential tools for economic activities, such as drivers' licences, bank accounts, property and land ownership and financial resources (the rights to work and to an adequate standard of living); (f) access to justice (the right to justice and an effective remedy); (g) freedom of movement (freedoms of movement and residence, freedom to leave or enter their own country); (h) legally recognized marriage (the right to marry and to found a family); and (i) family unity (the child's right to family unity).

13. For stateless persons, there may also be an increased risk of: (a) arbitrary arrest and detention (the right to liberty and security of person); (b) exploitation, including child labour and human trafficking (freedom from slavery and servitude); (c) harmful practices, such as child, early and forced marriage (prohibition of child marriage, freedom from violence); and (d) being confined to abusive relations, such as domestic violence (the right to life, freedom from violence, equality in marriage and family life).

14. The testimonies of persons affected by statelessness, including stateless persons and women who could not confer their nationality on their children or spouses, thus rendering them stateless, underscored that the right to nationality was a basis for their identity and dignity and was "a right to exist" and "a right to belong". One person, who was stateless partially because her mother could not confer her nationality on her children, elaborated on how she had been denied opportunities to develop herself to full potential owing to the lack of nationality. In another testimony, a person who had married a stateless man portrayed how her husband and children had been alienated as stateless persons and how distressing it had been for her not to be able to confer her nationality on them. Another person recounted that her husband and children had been forced to leave her country of nationality, despite their long-term residence and their preference for living in her country, as she could not confer her nationality on them. Some persons who had gained nationality after a nationality law reform described how they felt liberated and dignified afterwards.

15. Some experts and participants pointed out that the elimination of discrimination against women in nationality rights contributed to the fulfilment of international commitments made by States. Following the Fourth World Conference on Women, delegates from 189 countries had pledged to revoke any remaining laws that discriminated

[10] See Convention on the Reduction of Statelessness, arts. 1 and 4.
[11] Ibid., arts. 5-8.
[12] See Convention relating to the Status of Stateless Persons, art. 32.
[13] See Human Rights Council resolution 32/7, para. 2.
[14] See A/HRC/23/23, para. 7. See also "Background Note on Gender Equality" (footnote 1 above).

on the basis of sex, on the basis of the 1995 Beijing Declaration and Platform for Action.[15] States had also made relevant pledges in a number of global and regional initiatives to realize gender equality and reform laws discriminatory against women, or more specifically to eliminate gender discrimination in nationality law.[16] Likewise, the 2030 Agenda for Sustainable Development included targets on achieving gender equality for all women and girls, eliminating all discriminatory laws, policies and practices and providing a legal identity for all.[17] Furthermore, eliminating discrimination against women in nationality rights was necessary for the achievement of a number of Sustainable Development Goals.[18]

16. Some delegations observed that granting equal nationality rights to women and thus reducing statelessness contributed to broader national development, stability and security of the society and well-being of the population. Affected persons also highlighted the distress caused by social stigma, lack of identity, marginalization and alienation. Reducing the statelessness of women and their family facilitated more inclusive political and economic participation, the improvement of living conditions of affected persons, the elimination of social stigma against stateless persons and the reduction of social instability and insecurity resulting from social exclusion.

17. Some observed that discrimination against women in nationality rights increased the risks of domestic violence against women and children. Women who had lost their nationality through marriage or whose children did not have access to their mother's nationality may be less likely to report domestic violence or to leave an abusive marriage. Additionally, there was a higher risk of human trafficking among stateless women and girls. Discrimination against women in nationality laws could also contribute to child, early and forced marriages. Girls and women who were without nationality in their home country may be forced into child, early and forced marriage in hopes of obtaining greater security and access to the benefits of citizenship through their spouse.[19]

18. Experts and participants referred to the risk that discrimination against women in nationality laws posed to family unity and the child's right to know and be cared for by his or her parents.[20] It was reported that some women chose not to marry or have children because of the risk of rendering their children stateless and that some women felt guilty for marrying foreigners and depriving their children of citizenship. In some cases, this had given rise to extreme hardship for women and their families and some women had chosen to divorce their husbands in order to be able to confer their nationality on their children.[21] Those situations contradicted the right to marry and found a family.[22] Some experts also stated that, when women could not confer their nationality on their children and spouses, family members may be forced to live separately owing to deportation of those who did not

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[15] See Human Rights Council resolution 32/7, eighth preambular para.

[16] Such commitments include: the 2000 outcome document of the General Assembly at its twenty-third special session entitled "Women 2000: Gender Equality, Development and Peace for the Twenty-First Century"; the 2011 pledges made by States at the UNHCR Ministerial Intergovernmental Event on Refugees and Stateless Persons, available from www.refworld.org/docid/50aca6112.html; the 2015 political declaration of the Commission on the Status of Women at its fifty-ninth session; the 2016 agreed conclusions of the Commission on the Status of Women at its sixtieth session; and a number of recommendations relevant to women's equal nationality rights accepted by Member States during the universal periodic review process.

[17] See Human Rights Council resolution 32/7, thirteenth preambular para.

[18] See annex for the examples of Sustainable Development Goals that may be negatively affected by discrimination against women in nationality rights.

[19] See A/HRC/23/23, para. 53.

[20] The Convention on the Rights of the Child recognizes in its preamble that "the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding", and provides for States' obligation to protect family unity and family environment for children (see, for example arts. 5 and 8-10). See also A/HRC/23/23, para. 48.

[21] See also Women's Refugee Commission, *Our Motherland, Our Country: Gender Discrimination and Statelessness in the Middle East and North Africa* (New York, 2013).

[22] Article 23 of the International Covenant on Civil and Political Rights recognizes "the right of men and women of marriageable age to marry and to found a family shall be recognized".

have nationality of the country of family's residence, or their lack of access to higher education or work permits. Those scenarios may undermine children's right not to be separated from their parents against their will.[23]

IV. Law reforms to ensure women's equal nationality rights

19. In its resolution 32/7, the Human Rights Council urged States to take immediate steps to reform nationality laws that discriminated against women by granting equal rights to men and women to confer nationality on their children and spouses and regarding the acquisition, change or retention of their nationality.[24]

20. Experts and participants recommended a number of measures to guarantee women's equal rights in nationality laws. With regard to the acquisition, change or retention of nationality, they recommended that States: (a) ensure that marriage to a foreigner or a change to the husband's nationality during marriage would not automatically change the nationality of the wife, force her to take the nationality of the husband or put her at risk of statelessness; (b) ensure that a woman who had acquired nationality on the basis of marriage to a national did not lose that nationality in the event of dissolution of the marriage, or death of the spouse, unless requested along with proof of alternate nationality submitted by the affected woman herself; (c) introduce safeguards to nationality laws to ensure that any loss of nationality was applicable equally to women and men and conditional upon the possession or acquisition of another nationality; and (d) allow women and men whose marriage had been dissolved to reacquire their former nationality automatically through a simple declaration in cases where automatically they lost or had to renounce their nationality when they married.

21. With regard to women's ability to confer their nationality on their children and spouses, experts and participants recommended that States: (a) ensure that women may confer nationality on their children and their foreign spouses on the same basis as men; and (b) not distinguish between children born in and out of wedlock with regard to birth registration and the acquisition of nationality, and make laws, policies and regulations consistent.

22. They also recommended that those States that have not done so ratify international treaties that prohibit gender discrimination in relation to the right to nationality,[25] including the Convention on the Elimination of All Forms of Discrimination against Women, without reservations to article 9 and other provisions of the Convention that impede women's enjoyment of nationality rights on the same basis as men.

23. In addition, States may consider providing safeguards against statelessness and the lack of full enjoyment of human rights due to statelessness, including by: (a) taking measures to facilitate the transmission of nationality to the children and spouses of women who had become stateless or lost their nationality before reformed laws came into force, possibly including by applying the reformed law retrospectively to eliminate statelessness; (b) facilitating, in accordance with their national laws, the acquisition of nationality by children born in their territories or to their nationals abroad who would otherwise be stateless; (c) considering the recognition of dual nationality for children born to parents from different nationalities and for spouses married to foreigners and residing in the State of the spouse who expressed their wish to acquire the nationality of their spouse without losing their nationality of origin; (d) guaranteeing the full enjoyment of human rights for non-national family members, in particular the rights to education, enjoyment of the highest attainable standard of health, work, property, freedom of residence and freedom from violence (access to timely and effective administrative and judicial remedies should be also available to them); (e) combating human trafficking, including through the identification of potential victims of trafficking and the provision of appropriate assistance to stateless

[23] See Convention on the Rights of the Child, art. 9.

[24] See Human Rights Council resolution 32/7, para. 5.

[25] For more details of legal frameworks on non-discrimination against women in nationality laws, see A/HRC/23/23, paras. 8-18.

persons who may be victims of trafficking, paying particular attention to the needs and vulnerabilities of trafficked women and children; and (f) ratifying relevant international treaties, including the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

24. In addition to the reform of nationality laws, reform of other laws may be needed to fully guarantee women's equal enjoyment of nationality rights. For example, laws and policies that required women to have third-party authorization in order to gain access to civil documents undermined women's full enjoyment of their nationality rights. Laws and policies should be reformed to guarantee women's independent and autonomous access, regardless of their marital status, to civil documents for themselves and their children, including birth and marriage certificates, passports and other nationality documents.

25. Certain provisions of family laws or criminal laws may hinder the enjoyment of nationality rights of women and their families and thus may need to be amended. For example, the non-recognition of interreligious marriage could lead to women refraining from registering their children at birth.[26] The criminalization of sex out of wedlock may discourage women from registering their children born out of wedlock.[27]

V. Strategies for a successful nationality law reform

26. The experts and participants at the workshop shared experiences on nationality law reform and deliberated on strategies to achieve successful reform. A summary is included below of the recommended strategies based on good practices across the world. However, it was noted that, ultimately, a careful assessment of the unique opportunities and challenges present in each country must guide all attempts at reform.

27. As strategies for Governments, the following recommendations were made:

(a) Existing domestic laws, such as the Constitution, Personal and Family Codes, and Children's Codes, as well as international treaties ratified by the State, may already provide for non-discriminatory nationality rights for men and women. A review of the consistency and coherence of domestic laws may provide a rationale for a reform of nationality laws.[28] In such cases, aligning nationality laws with other laws that guarantee non-discrimination would clarify applicable legal standards and secure consistent application of equal nationality rights for men and women by national and local officials and judiciary;

(b) Strong political leadership at a high level was crucial to leading law reform. Several successful nationality law reform processes, including those in Algeria, Madagascar, Morocco and Senegal, had benefited from the commitment and leadership of the highest levels of government.[29] Likewise, a multisectoral approach led by such high-level leadership had been found useful. Intersectoral coordination mechanisms could be established bringing on board a wide range of line ministries that may have relevant mandates, such as ministries responsible for access to justice, education and health care,

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[26] See Equal Rights Trust, *My Children's Future: Ending Gender Discrimination in Nationality Laws* (London, 2015), p. 18. Laws that deny women's ability to choose a spouse freely, such as prohibitions on interreligious marriage, themselves constitute discrimination against women (see, for example, article 16 of the Convention on the Elimination of Discrimination against Women).

[27] The Working Group on the issue of discrimination against women in law and in practice has maintained that adultery as a criminal offence violates women's human rights, stating that "international human rights jurisprudence established that criminalization of sexual relations between consenting adults is a violation of their right to privacy and infringement of article 17 of the International Covenant on Civil and Political Rights". See http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12672&LangID=E.

[28] Experience of Algeria, Indonesia and Somalia shared by the experts.

[29] Experience of Algeria, Madagascar, Morocco and Senegal, shared by the experts at the workshop. See also UNHCR, "Good Practices Paper - Action 3: Removing Gender Discrimination from Nationality Laws" (2015), available from www.refworld.org/pdfid/54f8377d4.pdf.

women's empowerment, social protection, economic development/poverty eradication, children's/youth welfare and ending violence against women and children.[30]

(c) A wide range of actors, including parliamentarians (such as parliamentary women's caucuses), the judiciary,[31] national human rights institutions, civil society organizations (including organizations working on statelessness, women's rights, children's rights and human rights in general), the media, communities, development partners and affected persons (including children and spouses of women affected by discriminatory nationality laws) played key roles. They could contribute to creating an environment conducive to law reform, by generating arguments in favour of reform and raising awareness and clearing up misunderstandings related to women's equal nationality rights. Some experts underlined the crucial role played by civil society organizations and the media in successful law reforms.[32]

(d) The active participation of rights-holders in the reform process was a crucial element for success. The Government should ensure that affected persons and civil society organizations are consulted and enable their free, active and meaningful participation in the law reform discussions, including assessment and analysis, designing and deliberation on the law. One expert reiterated the key role played by democratic movements and campaigns by women's rights groups to generate political will to advance law reform. Women should be seen as active agents for change. Facilitating women's public participation in general, including within parliaments and in Governments, created an enabling environment for the reform of nationality laws. Wide consultations, including with citizens living outside the country, such as diaspora or expatriates, could be useful.[33]

(e) One of the biggest challenges for a nationality law reform was resistance within society, on the basis of persistent patriarchal and discriminatory gender stereotypes combined with the intersectoral forms of discrimination that women face. To overcome such challenges, the Government may wish to consider: (i) making the voices and testimonies of affected persons heard (in some countries, creating opportunities to listen to the testimonies of affected persons in parliament, at the grass-roots level and through the media had proved to be a powerful means of creating a support base for reforms);[34] (ii) working with civil society, including women's organizations, human rights organizations and the media to raise awareness with stakeholders and the public on the significant individual and social costs of discrimination against women in nationality rights, and the benefits of reform for affected persons, their families and the country at large; (iii) assessing if broader gender-equality agendas would create an environment conducive to nationality law reform (in some countries, combining advocacy messages for nationality law reform with a broader agenda, such as gender equality, had resulted in stronger support);[35] (iv) disseminating widely recommendations issued by international and regional human rights mechanisms with regard to nationality rights and informing national stakeholders about the commitments made by the Government with regard to the processes and timelines for law reform in international forums; and (v) working with religious leaders to explore feminist interpretations of religious teachings and texts to demystify religious interpretations that go against gender equality and women's rights;

(f) Experts from the Governments and civil society organizations indicated that the interaction with the United Nations human rights mechanisms, in particular the Committee on the Elimination of Discrimination against Women, had been strategically important processes to use. In several countries, interaction with such mechanisms had

[30] See, for example, the experience of Senegal in "Good Practices Paper" (footnote 29 above).
[31] See A/HRC/23/23, paras. 62-66.
[32] Experience of Algeria, Indonesia and Madagascar shared by the experts.
[33] Experience of Indonesia and Somalia shared by the experts.
[34] Experience of Indonesia shared by an expert. See also "Good Practices Paper" (footnote 29 above).
[35] Experience shared by the experts from Algeria and Somalia.

provided opportunities for dialogue and advocacy for women's equal nationality rights, and for monitoring progress in the reform processes.[36]

28. With regard to civil society organizations, the experts and participants at the workshop encouraged collaboration between those working to end statelessness and women's rights organizations to mobilize greater support for the reform. Furthermore, it was pointed out that civil society and the media can play a role by holding the Government accountable for the implementation of regional and international commitments, including through monitoring of international human rights bodies and strategic litigation[37] at the national level. Some pointed out that regional collaboration among civil society organizations and movements is useful.[38]

29. International actors, such as other States, development partners, international organizations and the United Nations human rights mechanisms could also support the law reform and the implementation of reformed laws. States could play a role in advocating for women's equal nationality rights through bilateral and multilateral diplomacy. Some participants stressed the importance of regional cooperation among States, referring to ongoing efforts made in regional intergovernmental forums.[39] States could also encourage and support their peers in eliminating discrimination against women in nationality rights through the universal periodic review process[40] and through development cooperation in the context of realizing the 2030 Agenda for Sustainable Development, in particular goal 5.[41]

30. Development partners, United Nations entities, agencies, funds and programmes, including OHCHR, UNHCR, the United Nations Children's Fund (UNICEF) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), and other international organizations could advocate for the elimination of discrimination against women and realization of gender equality, including in nationality rights, and provided technical support to States for the development, adoption and implementation of the necessary law reforms. Such efforts may be undertaken under and contribute to global campaigns, such as the "I Belong" 10-year campaign to end statelessness, the global campaign for equal nationality rights by an international coalition of organizations and the UNHCR- and UNICEF-led Coalition on Every Child's Right to a Nationality.

31. United Nations human rights mechanisms, such as special procedures of the Human Rights Council and the human rights treaty bodies, could address and highlight issues relating to the right to a nationality and statelessness within their mandates, and engaged with States in constructive dialogue in order to support them in conducting law reforms and the implementation of reformed laws.[42]

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[36] Experience of Indonesia shared by an expert. See also the experience of Algeria and Morocco in "Good Practices Paper" (footnote 29 above).

[37] See, for example, A/HRC/23/23, para. 69.

[38] Experience of regional collaboration of civil society organizations in the Gulf region, shared by an expert. See also A/HRC/23/23, para. 68.

[39] Such efforts include: the Regional Expert Roundtable on Good Practices for the Identification, Prevention and Reduction of Statelessness and the Protection of Stateless Persons in South East Asia (2010); the Brazil Declaration and Plan of Action on strengthening the international protection of refugees, displaced and stateless persons in Latin America and the Caribbean (2014); the seven-point plan of action that resulted from the meeting of parliamentarians held in Cape Town, South Africa (2015); the Abidjan Declaration of Ministers of Member States of the Economic Community of West African States on the eradication of statelessness (2015); the first conclusions on statelessness, adopted by the Council of the European Union (2015), and resulting in the establishment of the European Migration Network and sharing of a set of good practices within Europe; the Bali Declaration on People Smuggling, Trafficking in Persons and Related Transnational Crime (2016); the resolution on legal identity for children, adopted by the 134th assembly of the Inter-Parliamentary Union (2016); and the African Union initiative to develop a draft protocol on the right to a nationality in Africa.

[40] See Human Rights Council resolution 32/7, para. 11.

[41] Ibid., para. 18.

[42] Ibid., para. 10.

VI. Effective implementation of reformed nationality laws

32. In paragraphs 6 and 9 of its resolution 32/7 the Human Rights Council urged States that had reformed nationality laws to ensure effective implementation of the laws and called upon States to ensure that effective and appropriate remedies were available to all persons, in particular women and children, whose right to a nationality had been violated. Implementation of reformed laws may be restricted when: (a) there was no clear implementation plan with clear timelines and adequate resource allocation; (b) officials applied the provisions inconsistently or arbitrarily; (c) affected women and their children and spouses were not aware of their rights; (d) administrative procedures and requirements had discriminatory impacts; and (e) effective remedies were not available in the event of non-compliance with the reformed laws.

33. Experts and participants at the workshop shared recommendations for overcoming challenges often faced by States in the implementation of reformed nationality laws. They emphasized the importance of putting in place implementation plans for the reformed laws. In that regard, they suggested that Governments should consider: (a) developing national plans of action to implement the reformed nationality laws, which included plans and budgeting for public awareness-raising campaigns, capacity-building of civil authorities and support to women who sought to acquire, change, retain or confer their nationality; (b) promoting consistency between national plans of actions for the realization of the 2030 Agenda for Sustainable Development and those for ending statelessness that can also be used to eliminate discrimination against women in nationality rights and implement the reformed nationality laws (for example, including in a national development plan a workplan for achieving Goal 5 of the Sustainable Development Goals, on gender equality, could include a comprehensive review of the policies, regulations and procedures that discriminated against women, including those relevant to nationality rights); and (c) including in the plan, with sufficient budget, provisions for the training of civil authorities and for public awareness-raising campaigns about the reform process.

34. Experts and participants also underlined the importance of raising awareness and building capacity of rights-holders and duty-bearers on the reformed laws, and recommended that Governments: (a) publicize the reformed nationality laws and raise public awareness of the laws, including in local languages with clear instructions on how affected persons could benefit from reforms; (b) raise awareness among women and those affected by discriminatory nationality laws about their nationality rights and provide them with the support necessary, including legal aid, to acquire, change, retain or reacquire their nationality; (c) when disseminating information and providing support, proactively reach out to women who may be at a higher risk of statelessness or whose children may be at a higher risk of statelessness, including immigrating and emigrating women, refugee women, indigenous and minority women, women living abroad, single women heads of household, and victims and survivors of gender-based violence and trafficking in persons; (d) conduct gender-sensitive training of public officials, including judges and local leaders, and targeted outreach to civil society to engage relevant communities; (e) eradicate stigma and penalties against stateless persons (stigma and fear of penalties, such as detention or deportation, may inhibit women and their families who are rendered stateless owing to gender discrimination in the former nationality law to acknowledge their status and seek to acquire nationality); (f) develop guidelines regarding the application of nationality laws and related administrative policies, including accountability mechanisms in case of non-compliance by officials; and (g) take all measures necessary to ensure that all girls and boys are registered immediately after birth, without discrimination on the basis of sex, race, disability, social or other status, including with respect to the sex of the parent requesting the birth certificate (marriages should also be registered in a timely manner).

35. Furthermore, they recommended that Governments eliminate practical barriers for women and their families to exercise their nationality rights, including by: (a) ensuring that men and women had equal and autonomous access to documents used to prove nationality, in particular passports, identity documents and birth certificates and, where relevant, marriage certificates; (b) providing for alternative systems of proof of identity in contexts where documentary evidence was not available or could not reasonably be obtained,

including in the cases of displacement or in relation to victims of trafficking; and (c) monitoring whether the implementation of nationality laws had an unintended discriminatory impact on women and amending administrative procedures and requirements to ensure women's equal enjoyment of nationality rights.

36. Lastly, they suggested that Governments provide safeguards against and remedies for violations of women's equal nationality rights by: (a) facilitating the acquisition of nationality for those who did not benefit from recent reforms in nationality laws because the law was not retroactive or had other stringent requirements; (b) concluding agreements with other States on nationality matters to prevent statelessness; (c) protecting women human rights defenders involved in nationality-related campaigns and ensure effective representation of women in all processes to reform nationality laws and in their implementation, whether at the local, national, regional or international level; (d) ensuring that effective and appropriate remedies were available to all persons, in particular women and children, whose right to a nationality had been violated, including restoration of nationality and expedient provision of documentary proof of nationality by the State responsible for the violation; and (e) in order to facilitate consistency in the provision of effective remedies, disseminating widely all relevant judicial decisions and recommendations of human rights mechanisms on nationality and ensure local governments and local courts were made aware of related decisions and recommendations and their applicability under their local jurisdiction.

37. With regard to civil society organizations, the experts and participants of the workshop recommended that they: (a) monitor the implementation of the reformed law, including at the executive and judicial levels; (b) disseminate information, raise awareness and share good practices among concerned stakeholders; (c) and sustain engagement with the Government on gender equality issues.[47]

VII. Conclusions and recommendations

38. **Many experts and participants referred to the importance of the international legal framework to eliminate discrimination against women in nationality rights. The testimonies of persons affected by discrimination against women in nationality rights underscored the gravity of the impact that such discrimination could have on their identity, dignity and the enjoyment of a wide range of human rights. Several experts and participants pointed out that gender equality in nationality rights contributed to achieving a number of Sustainable Development Goals, as well as broader national development. It also contributed to more inclusive and stable society and the well-being of the population by reducing social marginalization and alienation. While ensuring women's equal nationality rights through law reforms and their implementation may be a long-term project, it was a feasible and necessary goal to achieve.**

39. **Experts and participants shared concrete and practical recommendations for law reforms and their implementation, as described in sections IV to VI above. In particular, many experts and participants emphasized that strong political leadership at the highest levels, as well as active engagement of the Government, parliamentarians, civil society and the media, were crucial elements for successful law reform.**

40. **Discriminatory gender stereotypes and intersecting forms of discrimination women faced were identified as major challenges to achieving necessary law reform. Experts and participants recommended that Governments, working with parliamentarians, civil society organizations and the media: (a) raise awareness on gender equality in nationality rights among affected persons and the general public, including through wide public consultations; (b) involve women as active agents in**

[47] See, for example, the experience of Egypt in "Good Practices Paper" (footnote 29 above).

public decision-making on relevant issues; and (c) demonstrate consistent advocacy among the relevant stakeholders.

41. Several experts and participants highlighted that cooperation at the regional level, including among civil society organizations, had proved to be useful. Given the wide consensus on the importance of the realization of women's equal nationality rights, [40] experts and participants encouraged States to play an active role in advocating for and supporting reforms through bilateral and multilateral diplomacy.

42. Lastly, experts and participants found that interaction with the United Nations human rights mechanisms, including the Committee on the Elimination of Discrimination against Women, the universal periodic review, the working group on discrimination against women in laws and practices and other special procedures of the Human Rights Council, could be used strategically to promote dialogue at the national level.

[40] Human Rights Council resolution 32/7 was sponsored by 107 States.

Annex

Examples of Sustainable Development Goals that may be negatively affected by discrimination against women in nationality rights

Goals	Targets	*Impact of discrimination against women in nationality rights*
1. End poverty in all its forms everywhere	1.3 Implement nationally appropriate social protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable	Women and their families affected by discrimination against women in nationality rights tend to have higher risk of facing poverty as their access to education, formal employment, social services and inheritance of family property may be compromised owing to the lack of nationality.
2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture	2.3 By 2030, double the agricultural productivity and incomes of small-scale food producers, in particular women, indigenous peoples, family farmers, pastoralists and fishers, including through secure and equal access to land, other productive resources and inputs, knowledge, financial services, markets and opportunities for value addition and non-farm employment	Discrimination against women in nationality rights can limit affected persons' ability to inherit family property and to give their children an inheritance of family property. For example, many countries restrict land ownership to citizens. Where children do not have the right to their mother's nationality, they may be unable to inherit the family land, which may be a basis for their livelihood and food security.
3. Ensure healthy lives and promote well-being for all at all ages	3.8 Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all	Those without nationality due to gender discrimination in nationality rights are often denied access to public health-care systems and/or subsidized health care, which can result in untreated diseases and illness.
4. Ensure inclusive and equitable education for all and promote lifelong learning opportunities for all	4.1 By 2030, ensure that all girls and boys complete free, equitable and quality primary and secondary education leading to relevant and effective learning outcomes 4.2 By 2030, ensure that all girls and boys have access to quality early childhood development, care and preprimary education so that they are ready for primary education 4.3 By 2030, ensure equal	Affected children who lack nationality in their country of residence often face obstacles to gaining access to education. They may be denied access to preprimary, primary, secondary or tertiary school education or be forced to pay higher school fees. Higher cost of education, combined with persisting gender stereotypes, may lead families with limited resources to prioritize boys'

Goals	*Targets*	*Impact of discrimination against women in nationality rights*
	access for all women and men to affordable and quality technical, vocational and tertiary education, including university	education over girls.
5. Achieve gender equality and empower all women and girls	5.1 End all forms of discrimination against all women and girls everywhere 5.2 Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation 5.3 Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation 5.5 Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision making in political, economic and public life 5.a Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws 5.c Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels	Not recognizing equal rights of women in nationality laws per se is a form of discrimination against women and girls. Discrimination against women in nationality rights implicitly endorses an understanding of women's status as inferior to men and women's legal identity as derivative, based on the nationality of her father or spouse, rather than an expression of her independent identity as a citizen. The inability of women to confer citizenship on spouses on an equal basis to men limits their ability to choose a spouse freely. The inability of women to confer nationality on children on an equal basis to men prevents mothers from exerting their rights and responsibilities equally as parents and guardians, while implicitly endorsing the notion of the father as the head of the household. Many women affected by discrimination against women in nationality rights are prevented from participating fully in economic, social, and political life. Women and their families who are or at risk of being stateless owing to gender discrimination in nationality laws face higher risks of becoming victims of human trafficking, child marriage or domestic violence. Discrimination against women in nationality rights can limit affected women's ability to inherit family property, including lands, and to give their children an

Goals	*Targets*	*Impact of discrimination against women in nationality rights*
		inheritance of family property.
8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all	8.5 By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value	When women are unable to confer nationality on their spouses, their husbands may be denied work permits and must often pay expensive residency permits. When women's children and spouses lack access to formal employment, those women may be forced to provide for the entire family, even when children reach adulthood. Children's lack of educational opportunities due to their nationality status can lead to a life of economic hardship and barriers to formal employment.
10. Reduce inequality within and among countries	10.3 Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard	Many persons affected by discrimination against women in nationality rights are prevented from participating fully in economic, social and political life.
11. Make cities and human settlements inclusive, safe, resilient and sustainable	11.1 By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums	Persons affected by discrimination against women in nationality rights may be prevented from executing contracts, including those pertaining to land/home ownership or renting housing.
16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels	16.2 End abuse, exploitation, trafficking and all forms of violence against and torture of children 16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels 16.9 By 2030, provide legal identity for all, including birth registration 16.b Promote and enforce non-discriminatory laws and policies for sustainable development	Children who are rendered stateless owing to gender discrimination in nationality rights are at higher risk of being victims of human trafficking or child marriage. They are often denied a legal identity, including access to civil documentation. Discriminatory nationality laws deprive a country of the contributions of a segment of their populations, which can result in a lower gross domestic product.